

IN THE UNITED STATES DISTRICT COURT FOR THE

SOUTHERN DISTRICT OF INDIANA

Terre Haute Division

**FILED**

04/24/2023

U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
Roger A.G. Sharpe, Clerk

William A White

Plaintiff

v.

Case No: 22-cv-2405-TWP-TAB

Robert Decker, et al.

Defendants

MOTION TO STRIKE ROBERT DECKER'S UNSERVED FILINGS  
(Docs 16-17) AS HE HAS NOT APPEARED AND PURSUANT TO FED. R. CIV. P.

5(a)(1)

Comes Now the Plaintiff, William A White, and, I Move this Court to Strike Robert Decker's Unserved Filings (Docs 16-17) As He Has Not Appeared And Pursuant To Fed. R. Civ. P. 5(a)(1). In support, I state as follows:

1) On April 17, 2023, this Court docketed two filings by Robert Decker. (Docs 16-17). The Clerk has misattributed these filings to me. (Docs 16-17). While a copy of the Complaint and waiver of service were mailed to Decker March 28, 2023 (Doc 11), Decker has not yet complied with Fed. R. Civ. P. 4(d) and has thus not yet appeared.

2) I hereby aver under penalty of perjury this 19<sup>th</sup> day of April, 2023, that Decker has not served a copy of these pleadings or communications on me as required by Fed. R. Civ. P. 5(a)(1)(D)-(E). Nevertheless, I am trying to obtain a copy of these

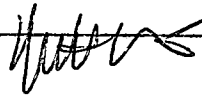
filings (Dec 16-17). I note that, as no discovery requests are pending, Decker would not be entitled to a protective order under Fed. R. Civ. P. 26(c). There is also no personal information in the Complaint under Fed. R. Civ. P. 5.2. There is also an ample public record to support the statements made about Decker, see, e.g., United States v. Decker 832 Fed Appx 639 (11<sup>th</sup> Cir 2020) (drug dealer); Decker v. United States 2021 US Dist LEXIS 222128 (SDFI 2021) (informant); United States v. Julian 427 F3d 471 (7<sup>th</sup> Cir 2005), Decker v. Federal Bureau of Prisons 2019 US Dist LEXIS 215806 (SD Ill 2019) (sex offender - there is also at least one New Jersey state conviction where the conduct charged was sexually touching his son). Should I receive a copy of Decker's motion, I can address the merits more clearly; I want to stay in the dark here.

3) Because Decker has not appeared, he cannot invoke this Court's jurisdiction - see, e.g., Kutrubis v. Bowman (In Re: Kutrubis) 550 Fed Appx 306 (7<sup>th</sup> Cir 2013) citing Lessee of Walden v. Craig's Heirs 39 US 147 (1840) (Court lacks jurisdiction until process is served on a defendant). While there are some matters that a defendant may address before they are served (see, e.g., Brown v. Peters 940 F3d 932 (7<sup>th</sup> Cir 2019), a motion requiring adversarial briefing is not one of them.

4) Further, Decker has not complied with Fed. R. Civ. P. 5(a)(1)(D)-(E). For this reason, his pleadings should be stricken or disregarded. Russell v. City of Milwaukee 338 F3d 662 (7<sup>th</sup> Cir 2003); Tarkowski v. Robert Bartlett Realty 1994 US App LEXIS 6977 (7<sup>th</sup> Cir 1994) citing Wick v. Koerig 766 F2d 265 (7<sup>th</sup> Cir 1985); Perrin v. O'Sullivan 1993 US App LEXIS 20273 (7<sup>th</sup> Cir 1993).

5) As Decker has not appeared, I am not required to serve this upon him. Fed.R.Civ.P. 56(d)(2); Cent Ill Carpenters Health & Welfare Trust Fund v. Con-Tech Carpentry, LLC 806 F3d 935 (7<sup>th</sup> Cir 2015). However, I have requested that FCI-Cumberland grant me leave to do so and will serve this if leave is granted.

Respectfully Submitted,



William A White #13888-084

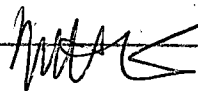
FCI-Cumberland

PO Box 1000

Cumberland, MD 21501

CERTIFICATE OF SERVICE

I hereby certify that this Motion to Strike was mailed to the Clerk of the Court, 1<sup>st</sup> Class Postage prepaid, this 20<sup>th</sup> day of April, 2023. I will serve the US Attorney once I receive their appearance in this matter and FCI-Cumberland grants me leave to do so. I will serve Decker once Decker is approved by FCI-Cumberland.



William A White